

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

180-Day Exp. Date: February 07, 2007

November 17, 2006

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Conservation District Use Application (CDUA) HA-3370
for the After the Fact Radio Repeater Site

APPLICANT: Kona Amateur Radio Society (KARS)

LANDOWNER: The Kamehameha Schools

LOCATION: Pu'u Honuaula, Kaupulehu, North Kona , Island of Hawaii

TMK: (3) 7-2-001:001

AREA OF PARCEL: ≈ 7283.77 Acres

AREA OF USE: ≈ 36 square feet

SUBZONE: Resource

BACKGROUND:

On March 17th, 1991, the unauthorized radio repeater was erected to create a radio communication system that linked all areas of the County of Hawaii together. A repeater is a remote radio usually located atop a mountain that can receive and transmit simultaneously to provide a radio link between two parties. The placement of repeaters is crucial to provide good radio coverage. This particular site has been an asset in times of emergency. The applicant does participate in statewide exercise to prepare for catastrophic events with the State Civil Defense.

The unauthorized land use was resolved through the Hearing Officers Administrative Penalty System (HOAPS). A fine of \$250 was assessed and paid and this After the Fact CDUA was filed.

DESCRIPTION OF AREA/CURRENT USE:

The subject property is located on the west side of the island of Hawaii in the Kaupulehu Forest Reserve in the North Kona District. The subject area is located in the Resource subzone of the Conservation District. The radio repeater is located on the steeply sided Pu'u Honuaula, below the peak, at the 8000-foot elevation. (**Exhibit 1, 2 & 3**).

According to the applicant, the radio repeater occupies an area of 36 ft² and consists of a gray shaded wooden cabinet with an antenna mast approximately 12' in height. The system is solar powered and is self sufficient with minimal maintenance (**Exhibit 4 & 5**).

There are no trails or public access to the site. The site is not visible from the surrounding public and private properties. No grading or landscaping has taken place. There are no lights on the structure. The subject site is barren cinder covered ground with sporadic scatters of pukeawe, naio, eucalyptus and aali'i.

PROPOSED USE

The applicant proposes to legalize the radio repeater that occupies an area of 36 ft² and consists of a gray shaded wooden cabinet with an antenna mast approximately 12' in height to conform to State Land use laws.

SUMMARY OF COMMENTS

The application was referred to the following agencies for their review and comment: the **State**: Department of Health, Office of Hawaiian Affairs, Office of Environmental Quality Control, Department of Land & Natural Resources Divisions of: Forestry & Wildlife and Historic Preservation; the **County of Hawaii** Department of Planning and Civil Defense. In addition, the CDUA was also sent to the nearest public library, the Holualoa Public Library, to make this information readily available to those who may wish to review it.

Comments were received and summarized from the following:

DEPARTMENT OF LAND AND NATURAL RESOURCES

Division of Forestry & Wildlife

No comments

OFFICE OF HAWAIIAN AFFAIRS (OHA)

Our Staff recommends that the applicant contact the OHA Kailua-Kona office in order to verify that operation of the facility does not conflict with any native Hawaiian cultural practices associated with the nearby Hainoa (Hualalai summit).

Applicant's response

Consultation took place with the OHA Office in Kailua Kona. Work maintenance at the repeater site shall be restricted to the immediate area. There are no plans for any ground disturbance or expansion at the site. Operation of the site should not conflict with any native Hawaiian cultural practices associated with Hainoa.

COUNTY OF HAWAII

Civil Defense Agency

The site is in Lava Flow Zone 4 of Hualalai. Should Hualalai become active, this site could become inundated by lava. The summits of Hawaii Island are subject to occasional high wind, snowfall and adverse weather conditions. The Kona Amateur Radio Society works very hard to provide emergency communications back up in the event of an emergency. This site is a welcomed addition to that added capability. Recommend approval of this site.

ANALYSIS

Following review and acceptance for processing, the Applicant was notified, by letter dated August 16, 2006, that:

1. The proposed use is an identified land use within the Resource subzone of the Conservation District, pursuant to the Hawaii Administrative Rules (HAR) §13-5-22, P-6 PUBLIC PURPOSE USES, (D-1) Transportation systems, transmission facilities for public utilities, water systems, energy generation facilities utilizing the renewable resources of the area and communications systems and other such land uses which are undertaken by non-governmental entities which benefit the public and are consistent with the purpose of the conservation district. Please be advised however, that this finding does not constitute approval of the proposal;
2. Pursuant to §13-5-40(4), HAR, HEARINGS, a public hearing will not be required;
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and HAR, Title 11, Department of Health, Chapter 200, Environmental Impact Statement Rules, Subchapter 5, Section 11-200-8 (4), the proposed use is exempt; and

4. The subject area is not within the Special Management Area (SMA).

Notice of Conservation District Use Application HA-3370 was published in the September 8, 2006 issue of the Environmental Notice.

CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in Section 13-5-30 HAR.

- 1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

The After the Fact Radio Repeater provides for emergency communications to assist Civil Defense, the American Red Cross, the Amateur Radio Emergency Service, the Hawaii County Police and other services to maintain the public health, safety and welfare in the event of disaster.

- 2) *The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.*

The objective of the Resource subzone is to develop with proper management, areas to ensure sustained use of the natural resources of those areas. The After the Fact Radio Repeater is an identified public purpose land use that is consistent with the Resource subzone. The site has a very small footprint of 36 ft² and Staff believes the use does not conflict with this objective.

- 3) *The proposed land use complies with the provisions and guidelines contained in Chapter 205A, HRS entitled "Coastal Zone Management", where applicable.*

Staff believes the After the Fact use is not inconsistent with Chapter 205A, HRS.

- 4) *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

The After the Fact use has not caused substantial adverse impact to existing natural resources within the surrounding area, community or region. The radio repeater occupies an area of 36 ft² and consists of a gray shaded wooden cabinet with an antenna mast approximately 12' in height. The system is solar powered and is self sufficient with minimal maintenance. There are no trails or public access to the site. The site is not visible from the surrounding public and private

properties. No grading or landscaping has taken place. There are no lights on the structure.

- 5) *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

Staff is of the opinion that the radio repeater is appropriate to the physical conditions and capabilities of the specific lots. The system is solar powered and is self sufficient with minimal maintenance. The site is not visible from surrounding properties and the site is not illuminated.

- 6) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

The erection of the radio repeater did not have any physical impact on the land. No landscaping, grading or grubbing took place. Therefore Staff is of the opinion that the natural beauty and open space characteristics within the Conservation District shall be maintained.

- 7) *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

No subdivision took place for the repeater site.

- 8) *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Staff is of the opinion that the radio repeater shall help to insure the public health, safety and welfare by providing emergency radio communication to assist emergency responders such as the Civil Defense, the American Red Cross, the Amateur Radio Emergency Service and the Hawaii County Police.

DISCUSSION

The radio repeater was erected in the early 1990's and has been utilized in statewide exercises to prepare for catastrophic events through coordination with the Hawaii State Civil Defense and the Radio Amateur Civil Emergency Service. The repeater was utilized and aided in the coordination of communications between the Kona Hospital and the Red Cross during the aftermath of the earthquake off of the island of Hawaii on October 15, 2006 when conventional communication systems failed. Staff believes the repeater is a valuable asset and should be allowed to continue to provide for emergency radio communication.

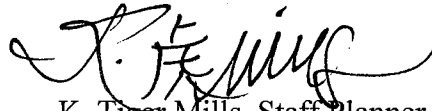
RECOMMENDATION

Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVE this After the Fact application for the Radio Repeater located at Pu'u Honuaula, Kaupulehu, North Kona, Island of Hawaii, TMK:(3) 7-2-001:001 subject to the following conditions:

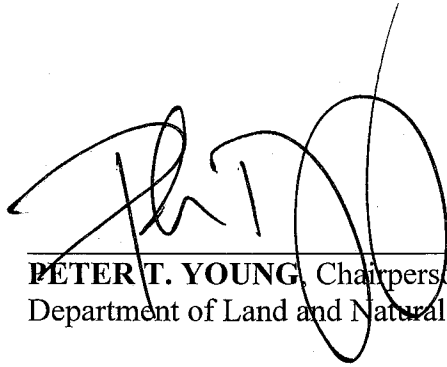
- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The applicant shall maintain appropriate authorization from the landowner, Kamehameha Schools for the occupancy of their lands;
- 4) The applicant shall comply with all applicable Department of Health administrative rules;
- 5) All representations relative to mitigation set forth in the accepted Conservation District Use Application are incorporated as conditions of the permit;
- 6) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 7) In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 8) Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard;
- 9) For the duration of the lifespan of the radio repeater, the manager of the site shall continue to participate in statewide exercises for emergency responders;
- 10) Other terms and conditions as may be prescribed by the Chairperson; and

- 11) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands



PETER T. YOUNG, Chairperson
Department of Land and Natural Resources

[illegible]

EXHIBIT 1

Appendix B: *Photos of Site*

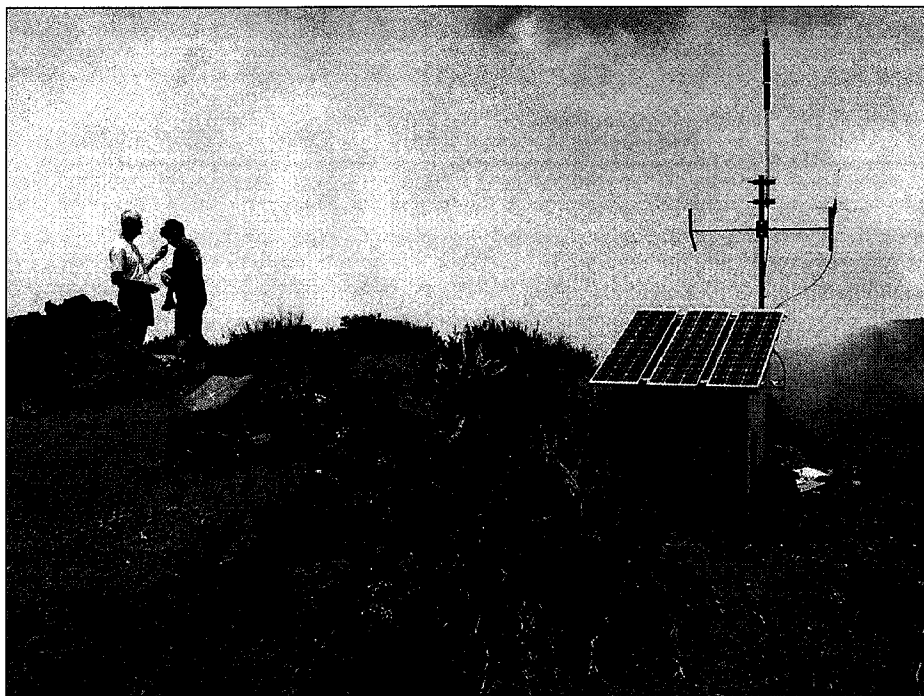
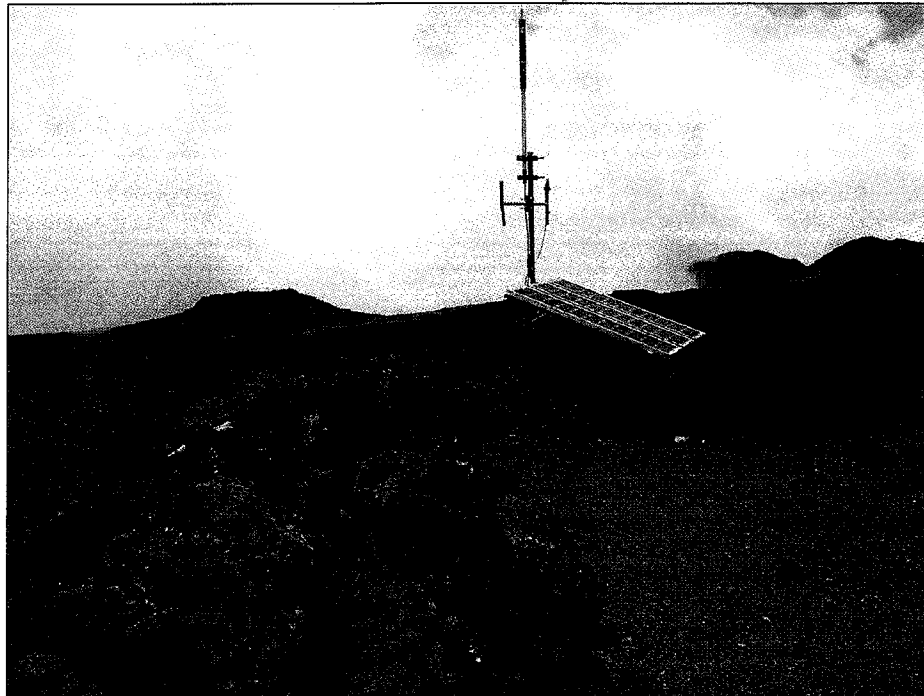


EXHIBIT 4

Appendix C: **Structure Diagram**

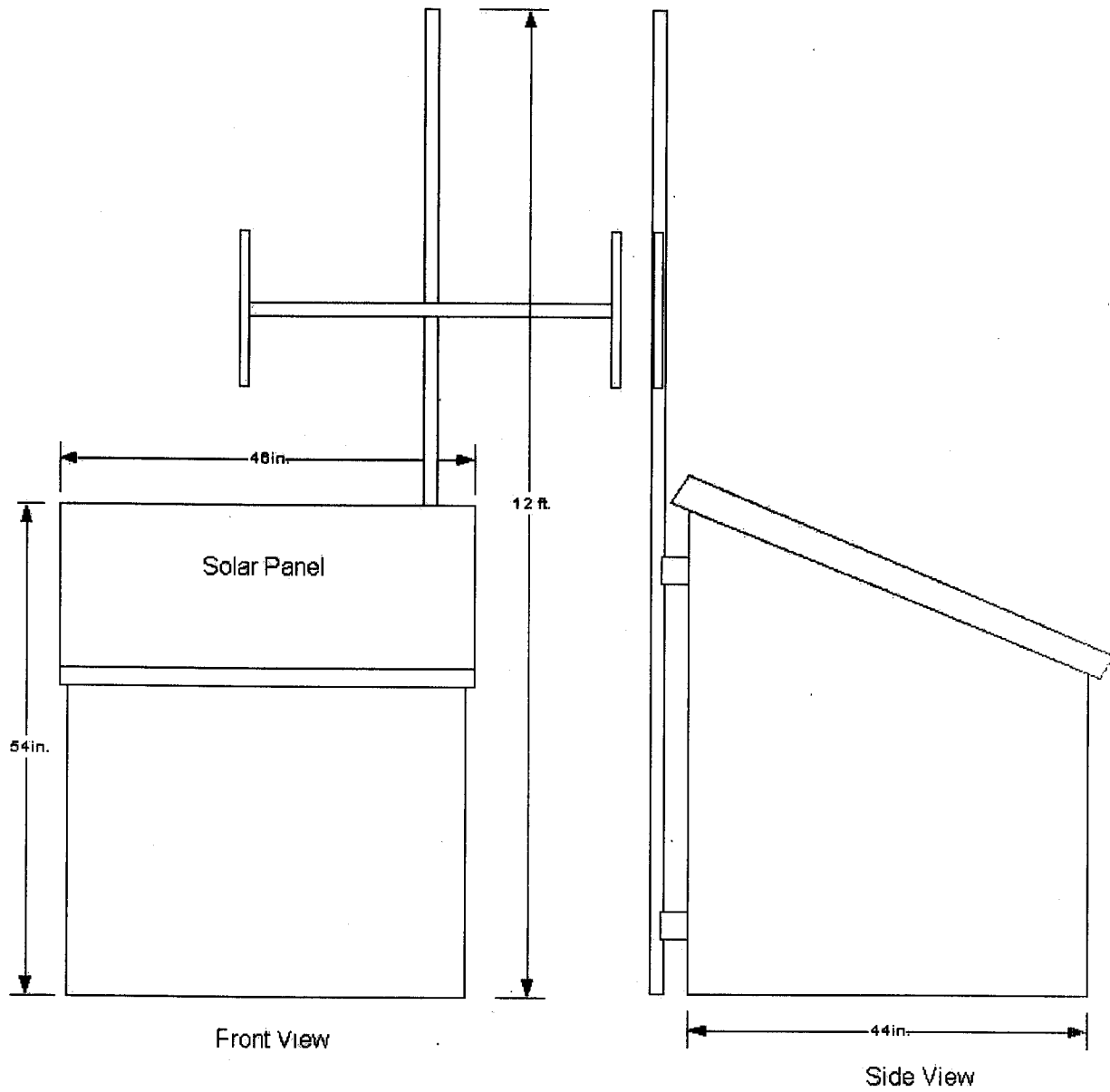


EXHIBIT 5